

	GUIDANCE
	Unit: Investigations
Effective Date: 10/1/22	Supersedes: 1/15/22

Referral for Mediation

PURPOSE

To provide guidance to members of COPA’s investigative staff on certain procedures and expectations for identification and referral of misconduct complaints involving Chicago Police Department members to the Center for Conflict Resolution for mediation in compliance with the City of Chicago’s Interagency Policy on Police Community-Employee Mediation Program.

DEFINITIONS

Term	Meaning
Accused Department Member	A Department member against whom allegations of misconduct have been made.
Center for Conflict Resolution	A neutral mediation services provider engaged by the City of Chicago to facilitate a voluntary, non-disciplinary process of mediation between complainants and Department members.
COPA Intake Coordinator	An internal title assigned to the ranking COPA member assigned as manager of COPA’s Intake Unit (typically, a Deputy Chief Administrator or Director of Investigations). The Intake Coordinator is responsible for reviewing and referring complaints identified as eligible for mediation by COPA investigative staff and the Chicago Police Department’s Bureau of Internal Affairs (BIA), as well as acting as a liaison to the City of Chicago’s mediation provider, in accordance with the City’s Interagency Policy on Community-Police Mediation.
COPA Intake Unit	COPA staff assigned to act as the agency’s first point of contact to facilitate the initial intake of complaints and Notifications via COPA’s various methods of information receipt, as well as make initial jurisdictional determinations, triage decisions, and conduct preliminary investigations.
COPA Investigative Squads	COPA staff assigned to carry forward investigative efforts after the initial intake of complaints and Notifications by COPA’s Intake Unit.

GUIDANCE

I. INITIAL SCREENING

- A. Consistent with the City’s Interagency Policy on Community-Police Mediation Program (Policy), Municipal Code of Chicago 2-78-120(a), and COPA Policy (Intake), COPA’s Intake Unit will continue to accept and record all complaints alleging misconduct against Chicago Police Department members.
- B. While processing and conducting preliminary investigative activity, COPA investigative staff will consider whether the complaint is eligible for mediation applying, at a minimum, the criteria listed in the City’s Policy (*see* V(3)(i-iii)):

<u>Eligible</u>	<u>Ineligible</u>
<ul style="list-style-type: none">• perceived bias/harassment;• failure to provide service/neglect of duty;• discourteous treatment/unprofessionalism;• unnecessary physical contact (i.e., no-injury/contact not a reportable use of force); and• any conduct not otherwise detailed above that, in the view of the COPA Chief Administrator, is likely to have a minimal negative impact on the operations or professional image of Department or the complainant has conveyed that mediation is the preferred method of resolution.	<ul style="list-style-type: none">• a reportable use of force by a Department member;• an arrest of the complainant;• an allegation of verbal abuse, as defined in 2-78-100 of the Municipal Code of Chicago;• a lawsuit filed regarding the allegations in the complaint;• an intimate partner relationship between the complainant and the Department member (i.e., instances of domestic violence or sexual misconduct);• injury to the complainant or Department member;• property damage caused by the complainant or Department member; and• complaints that include an express or apparent alleged violation of Illinois state law, the criminal code of another state, or a criminal federal statute against the Department member.
<p><u>Member History.</u> Generally, a complaint is not eligible for mediation if the accused Department member has had two or more prior complaints with similar allegations within the past 12 months.</p> <p>The Chief Administrator of COPA may approve an exception to this guideline for good cause. The Chief Administrator (or designee) may consult with the Chief of BIA (or designee) before making an exception for good cause. COPA will document the basis for good cause.</p>	

II. JURISDICTIONAL DETERMINATIONS AND NOTICE TO INTAKE COORDINATOR

- A. For complaints within COPA’s jurisdiction that appear eligible for mediation, COPA Intake staff will request review of the complaint to confirm eligibility by adjusting the investigative file in COPA’s electronic Case Management System (CMS) to reflect the appropriate status for Intake Coordinator review, as well as include a note in CMS supporting the eligibility recommendation.

1. Because the City's Policy allows for certain exceptions to eligibility/ineligibility criteria, COPA Intake staff should err in favor of bringing complaints to the attention of the Intake Coordinator for review.
 - a. For example, if an injury claimed by the complainant appears to be superficial and/or, based on preliminary investigative efforts, was likely not the result of a Department member's use of force, COPA Intake staff may bring the complaint to the attention of the Intake Coordinator.
- B. For complaints determined to be within the BIA's jurisdiction, COPA Intake staff will follow standard intake procedures and submit the complaint to a supervisor for review and assignment to BIA.
 1. If the complaint appears to be clearly eligible for mediation under criteria listed in the City's Policy, a COPA Intake supervisor may note the potential for mediation in a note in CMS prior to assignment to BIA.
 - a. No notice to the Intake Coordinator is required prior to assignment of the complaint to BIA.
 2. If upon review and further investigation BIA determines a complaint within its jurisdiction to be eligible for mediation, BIA will assign the complaint back to COPA with a note in CMS recommending that COPA refer the complaint for mediation.

III. INTAKE COORDINATOR REVIEW

- A. In determining eligibility for mediation, the Intake Coordinator will:
 1. evaluate the sufficiency of preliminary investigative efforts;
 2. apply eligibility/ineligibility criteria listed in the City's Policy; and
 3. consider any stated desires regarding outcome provided by the complainant.
- B. If determined eligible, the Intake Coordinator will:
 1. Ensure that correspondence notifying the complainant of COPA's determination is generated and sent utilizing COPA Template (Notice to Complainant of Referral for Mediation).
 - a. COPA will issue notice to the complainant's email address if one has been provided. In the absence of an email address, COPA will issue physical correspondence to the complainant's home address. If COPA is unable to contact the complainant through issuance of correspondence, the Intake Coordinator (or designee) may contact the complainant by phone and memorialize such efforts in a note in CMS.
 2. Ensure that correspondence notifying the Accused Department member(s) of COPA's determination is generated and sent utilizing COPA Template (Notice to Department Member of Referral for Mediation).

- a. COPA will issue notice to an Accused Department member's work email address.
 - b. Notice to Accused Department members will not include the complainant's name.
- C. If a complaint within COPA's jurisdiction is determined ineligible after referral to the Intake Coordinator for review, the Intake Coordinator will memorialize their decision in a note in CMS and notify the assigned investigative team by email that the complaint will not be referred for mediation and should proceed by following standard intake procedures.
 1. The Intake Coordinator will also adjust the status of the investigative file in CMS to reflect the appropriate status indicating that the complaint is no longer pending the Intake Coordinator's review.
- D. If the Intake Coordinator disagrees with a BIA recommendation to refer a complaint for mediation, the Intake Coordinator will notify the Chief Administrator (or designee) by email of the disagreement and request that the Chief Administrator (or designee) review the administrative investigative file.
 1. If the Chief Administrator (or designee) also disagrees with BIA's recommendation, the Chief Administrator (or designee) will notify the Chief of BIA (or designee) by email (cc'ing, at a minimum, the Intake Coordinator) and request a meeting to resolve the disagreement.
 2. If the disagreement is not resolved after meeting, the Intake Coordinator will assign the complaint back to BIA for investigation or resolution.
 3. The Intake Coordinator will ensure that all correspondence regarding the disagreement and efforts to resolve it are included or otherwise memorialized in CMS prior to assigning the complaint back to BIA.

IV. REFERRAL TO THE CENTER FOR CONFLICT RESOLUTION

- A. The Intake Coordinator is the liaison for all referrals for mediation to CCR.
- B. The Intake Coordinator will complete COPA Form (Referral for Mediation) to initiate referral of the complaint to CCR regardless of whether the complaint is determined to be within COPA or the Department's jurisdiction.
- C. The Intake Coordinator will incorporate a copy of the completed Referral for Mediation form in CMS, as well as include a note memorializing the referral in CMS.
- D. The Intake Coordinator will adjust the status of the complaint in CMS to reflect that it has been referred and is pending mediation.
- E. On an as needed basis, CCR may contact the Intake Coordinator (or designee) for assistance in communicating with the complainant. For example, to provide contextual information regarding COPA's intake and referral processes, COPA and BIA jurisdiction and

investigative responsibilities, application of mediation eligibility criteria, and disciplinary and non-disciplinary case outcomes.

V. MEDIATION OUTCOMES

- A. CCR will notify the Intake Coordinator of all concluded referral reviews and mediation efforts through submission of COPA Form (Mediation Report), which will reflect, at a minimum:
1. Mediation status (i.e., mediated, mediation attempted, and mediation declined by CCR)
 2. Mediation dates, if applicable; and
 3. good faith participation by the complainant and/or Accused Department member.
- B. The Intake Coordinator will adjust the investigative file in CMS to reflect the appropriate status based on the information provided by CCR and memorialize any supplemental information, as necessary, in a note in CMS.
1. If a case is successfully mediated, the status of the investigative file will be updated to reflect “Mediated” and will be closed.
 2. If a case is not successfully mediated, the Intake Coordinator will:
 - a. If within the Department’s jurisdiction, return the complaint to BIA.
 - b. If within COPA’s jurisdiction, review the investigative file and determine whether the matter should be closed with no finding (though may include a recommendation to the Department for non-disciplinary action, such as training or support services) or assigned to a COPA Investigative Squad for further investigation.
 - i. COPA will consider an Accused Department member’s good faith participation in the mediation effort when determining whether to resume an investigation. For example, if CCR determines that the Department member participated in good faith, and the complainant did not participate in good faith, COPA will close the investigation with no finding and note the Accused Department member’s good faith participation as the reason for closure.

EXCEPTIONS

After assignment of an investigation from the Intake Unit to an Investigative Squad, the assigned COPA investigative team may identify a subsequent complaint or complaints that may be eligible for mediation. This may occur, for example, as witnesses to the original complaint are identified and, through interviews of those witnesses, additional complaints involving Department members are raised.

The assigned investigative team will follow the procedures listed in II(A) above to notify the Intake Coordinator of the new complaint(s). The Intake Coordinator will review the new complaint(s) for eligibility

and collaborate with the assigned investigative team to ensure that the new complaint(s) are appropriately documented in CMS.

RELATED INFORMATION

<u>Title</u>	<u>Link</u>
Intake	COPA Policy
Notice to Complainant of Referral for Mediation	COPA Template
Notice to Department Member of Referral for Mediation	COPA Template
Mediation Report	COPA Form
Referral for Mediation	COPA Form
City of Chicago's Interagency Policy on Police Community-Employee Mediation Program	City of Chicago Policy

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